

A. State of Human Rights in Nigeria.

B. Submitted by Constitutional Rights Project; Access to Justice; Nigerian Bar Association; CLEEN Foundation; Institute for Human Rights and Humanitarian Law and BAOBAB for Women's Human Rights.

C. As a CSO Coalition Report

D. Country: Nigeria

E. To be reviewed at the 4th session in February 2009

F. Referee: Nigeria's CSO Coalition on UPR.

1.0 Mandate of Nigeria's CSO Coalition on the Universal Periodic Review

Established in April 2008, Nigeria's CSO Coalition on the Universal Periodic Review is a network of non-profit NGOs committed to long-term reforms in Nigeria's human rights practices.

2.0 Introduction

This report examines the state of human rights in Nigeria – focusing on key themes such as prisons/prisoners' rights, the Niger Delta Question, safety and security, electoral justice, women and children's rights, torture and extrajudicial killings as well as access to justice. It is a call to ensure and enhance the enjoyment of the fundamental rights and freedoms by all Nigerians.

3.0 Prisons/Prisoners' Rights

Nigeria's prison system is beset with well-known and fairly well-documented problems, including high awaiting trial population occasioning congestion, poor sanitary and health facilities, decaying infrastructure, amongst others.

In previous attempts at reforms, the government set up panels such as National Working Group on Prison Reform and Decongestion (2005), Inter-Ministerial Summit on the State of Remand Inmates in Nigeria's Prisons (2005), Presidential Committee on Prison Reform and Rehabilitation (2006) and Presidential Commission on the Reform of the Administration of Justice (2006). These panels submitted reports recommending far-reaching reforms to the government. Unfortunately, successive governments in Nigeria have shown apathy towards implementing the reports of panels it created.

Successive governments have also demonstrated less than satisfactory commitment to reforming the laws regulating Nigeria's prisons. The current Prisons Act was enacted in November 1947 (61 years ago) and has yet to undergo any fundamental reform since. A draft Prisons Bill presented to the federal parliament in 2004 has yet to become law.

Although there have been efforts by the state to address prison congestion, these efforts, have been episodic, and do not address the root causes of congestion, which may succinctly be described as institutional failures in the criminal justice system. For instance, in many states, persons arrested for crimes bearing the capital punishment are arraigned before courts that lack jurisdiction over such offences and remanded in prison custody for extended periods, ostensibly to conclude investigations. In many cases, these suspects are detained for 3-10 years as there is yet¹ not a mechanism to ensure they are

¹ Except for Lagos State (one of 36 states and Abuja) where the law now requires presiding magistrates to enquire into alleged offences and demand that suspects be brought to the courts at regular intervals for purposes of ascertaining the case, if any against them.

brought before the courts within a reasonable time limit. Indeed, many are incarcerated beyond the maximum prison term prescribed for the alleged crimes.

Intricately linked to congestion in prisons is the patent absence of sentencing guidelines for judicial officers whose mandate extends to criminal matters. This category of judicial officers almost always resort to imprisonment as a punishment and correctional option.

Prisoners' rights are routinely and systematically violated. Prison officials assault inmates, violating constitutional guarantees against cruel, inhuman and degrading treatment, and deny them good nutrition. Sometimes, prisoners' right of access to the courts are impeded by failure to provide vehicles to convey them to court. Access to medical care is also impeded by the absence of adequate health facilities. Generally, government does not provide adequate care for inmates.

3.1 Recommendations

1. Government should implement past reports of Commissions which recommend measures to reduce prison population.
2. The executive and legislative arms of government should expedite action on the new Prisons Bill and ensure passage as soon as possible.
3. Prison infrastructure should be rehabilitated and new facilities built.
4. New sentencing guidelines and alternatives to custodial sentencing should be adopted and implemented.
5. The Police Duty Solicitors Scheme should be replicated in all states to obviate the danger of long-term incarceration in police custody.

4.0 The Niger Delta Question

The epidemic of violence that plagues much of the Niger Delta has its roots in the corrupt, violent, and unaccountable nature of politics in the region. Governments of the core Niger Delta states have failed to protect life and property as provided for in the Constitution. In July and August 2007, warring gangs in Port Harcourt—the capital of Nigeria's Rivers State—unleashed an unprecedented wave of violence against the city and its people, leaving several dozen people dead and scores more wounded. Many victims were ordinary Nigerians who were either caught in the crossfire between rival gangs or deliberately shot by gang members. Gang violence spreads to other Rivers State communities as well. The bloodshed was a widely predicted aftershock of Nigeria's rigged and violent April 2007 nationwide elections. Most of the gangs involved gained experience and power as the hired guns of Rivers State politicians, who used them to rig elections and intimidate political opponents.

Over the years, these gangs have become involved in other forms of lucrative criminal activity, including the theft of crude oil, bank robbery, kidnappings for ransom, and other violent crimes. In large part due to their political connections, these gangs have committed crimes with impunity. The police have made no serious effort to press criminal charges against or apprehend any significant gang leader, even though several of them have lived openly in urban areas.

Rivers' post-election gang warfare spiralled far out of control that the federal government ordered a military-led Joint Task Force (JTF)—a combined force of police, military, and State Security Service (SSS) personnel—to intervene and stop it. The JTF were quick to restore order to Port Harcourt and other communities, but, in the process, killed civilians without justification, arbitrarily detained and beat others, and looted the homes of people in communities that looked to them for security. Despite the presence of JTF, kidnappings and other forms of cult violence continued to claim lives in early 2008: Until recently armed gangs continue to kidnap people for ransom in Rivers State, including children. The

status quo is not sustainable; the problem has been bottled up but will inevitably explode anew unless those most responsible for generating the violence are held to account.

Rivers State's government is the wealthiest state government in Nigeria, a position it derives from the State's status as the heart of Nigeria's booming oil industry. Rising world prices in recent years have flooded the State's treasury with a budget larger than those of many West African countries. In spite of this, Rivers has some of the worst socio-economic indices in the world – its people lack access to employment opportunities, education, health care and other basic needs. Instead of putting its massive oil revenue to work developing the state for the benefit of the entire population, Rivers' politicians have largely squandered the money through corruption and mismanagement, and have under-developed the region. Ironically, the young men attracted into well-funded gang activity because of poverty and underemployment are helping to fuel the same problems accountable for their lack of opportunities.

The situation in Rivers State is typical of all the Niger-Delta States. Their wealth has not just been squandered and opportunities wasted, it has been put to work sponsoring violence and insecurity on behalf of ruling party politicians.

Government responses to security and development challenges in the Niger-Delta have been grossly inadequate. For the past 9 years, the Niger-Delta Development Commission (NDDC) has managed the government's programme for "the rapid, even and sustainable development of the Niger-Delta into a region that is economically prosperous, socially stable, ecologically regenerative and politically peaceful." Like other development Commissions before it that held similar mandates, the Commission is failing to effectively and comprehensively address the problems of poverty, underdevelopment, and social and political stability in the region. Instability and insecurity, rooted in severely limited economic opportunities for citizens of the Niger-Delta region, is seriously affecting global oil supplies and oil price stability.

4.1 Recommendations

1. Government should take immediate steps to promote and protect the economic, social and cultural rights of citizens of the Niger Delta region. These steps should include:
 - i. Curbing corruption and the massive looting of public resources by State government officials in the Niger-Delta.
 - ii. Accelerating the development of the region and creating and/or expanding employment opportunities for youths in the region.
2. All persons involved in criminal activities within the region should be investigated and if culpable, prosecuted.
3. Security agencies assigned to the region should play their roles as impartial peace keepers and not perpetrators of criminal activity and violators of the rights of citizens.

5.0 Safety & Security

The Nigerian Police Force is believed to be under funded but there are reported cases of mismanagement of financial resources by top officers. This coupled with poor conditions of service make the police institution vulnerable to corrupt practices. Unfortunately, the institution has weak internal and external disciplinary mechanisms thereby promoting a culture of impunity. The Force is reported to be a major violator of human rights. There are several reported cases of rape, extra-judicial and arbitrary executions, torture, inhuman and degrading treatment of inmates in police custody made against personnel of the Force.

There is a civil society driven process for reviewing the Police Act of 1943. There is a draft Police Bill which embodies modern day techniques of democratic policing and human rights principles in policing. However, the bill has yet to become law.

5.1 Recommendations

1. Government should increase funding to the Nigerian Police Force. With funding should increase monitoring and auditing of expenditure patterns.
2. The Police Force should create an effective and transparent internal mechanism for addressing indiscipline and corruption.
3. The Police Service Commission, which exercises external oversight on the Force, should be strengthened to deal with reported cases of unlawful behaviour within the force.
4. Human rights should be incorporated into police training curriculum with a view to equipping officers and men with requisite tools to deal humanely with the public.

6.0 Electoral Justice

Previous attempts at reforming Nigeria's electoral system focused on peripheral issues. Consequently, fundamental challenges such the abuse of the power of incumbency, manipulation of nomination processes, lack of capacity and independence of electoral umpires and the partisan role of security agencies were largely ignored. The existing legal framework provides legal incentive for electoral fraud as it is slow and almost impossible to successfully prosecute for electoral offences. Enforcement is also weak. Similarly, the evidentiary burden on petitioners as well as unfair advantage enjoyed by anyone in possession of a Certificate of Return (however obtained) leaves much to be desired.

In apparent response to the seriously flawed 2007 general elections, the incumbent administration set up an Electoral Reform Committee. Nonetheless, there have been concerns, premised on the conduct of the Independent National Electoral Commission (INEC) and the ruling party in the last run of local government and rescheduled governorship elections, as to whether government's mouthed commitment to electoral reforms will translate to concrete and meaningful change in the electoral system

6.1 Recommendations

1. Election disputes should be resolved before the candidate returned as winner is sworn into office.
2. Burden of proof should lie in the candidate returned winner and the electoral umpire should be required to proof compliance with electoral laws in conduct of elections.
3. Electoral Act should be updated to provide that in examining substantial compliance, compliance to the provisions of the Act from the registration of voters to the announcement of results should be evaluated on the basis of evidence.
4. Constitutional and legal limitations to the independence of INEC and electoral commissioners should be removed. Appointments to INEC and State Independent electoral commissions should guarantee the independence of the bodies. Their functions should be restricted to conducting elections.
5. Prosecution of electoral offences should be vested in the police and the office of the Attorney General
6. Establishing a constitutional right to participation in government. This should involve the inclusion of the right to vote and be voted for of every Nigerian above 18years in chapter 4 of the Constitution as a fundamental human right.
7. Proof of disenfranchisement of 5% of the registered voters of any constituency should be a ground of annulment of the elections in that constituency

7.0 Women & Children's Rights

Women and children's rights fall below the minimum standard required of developing countries. Nigeria has neither domesticated CEDAW nor implemented the Beijing Platform for Action. Federal character and affirmative action are skewed against the female gender. Violence against women is rife. Maternal mortality figures are amongst the highest worldwide. About 54,000 women die annually from pregnancy related complications. 28% of Nigerians who can neither read nor write are women. Harmful traditional practices are prevalent amongst the female gender. 62% of 8 million children of school age are girls. Similarly, 1 of 5 children dies before age 5. Although the Child's Rights Act was passed in 2004 by the National Assembly, the majority of states have yet to pass similar legislations.

7.1 Recommendations

1. Government should take steps to domesticate CEDAW and implement the Beijing Platform of Action.
2. State governments should enact Child Rights Laws and ensure compliance within the ambits of the law.

8.0 Torture & Extrajudicial Killings

Torture is still practised as a pervasive and routine component of the criminal justice and law enforcement process. The two basic forms of torture are dehumanizing custodial conditions and corporal torture. These are discriminatorily and selectively applied against poor, uneducated and powerless citizens.

Extrajudicial executions are also widespread. Despite this, internal and external oversight mechanisms for investigating misconduct and ensuring accountability are weak and grossly inadequate.

8.1 Recommendations

1. Steps should be taken to domesticate the 1984 UN Convention against Torture.
2. A specific legislation criminalizing torture should be passed.
3. Notorious torture centres in police stations should be shut down.
4. Establish functional inquest system to ensure investigation of unnatural deaths.

9.0 Access to Courts/Justice

The existing system of administration of justice in Nigeria is grossly inadequate. Access to courts and justice is obstructed by inefficient legal aid, court congestion, high costs of litigation, poor and inadequate court facilities, cumbersome system of recording court proceedings (leading to delay and abuse of processes), archaic and non-uniform rules of procedure, and corruption in the clerical and administrative cadre.

9.1 Recommendations

1. Expand access to courts through reform of the justice sector.
2. Provide more effective legal aid through partnership between government and civil society.